

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**University of Montana Western – Lewis & Clark Room**  
**Dillon, MT**  
**JULY 19, 2007**

**Commission Members Present:** Steve Doherty, Chairman; Shane Colton, Vice-Chair; Vic Workman; Dan Vermillion; Willie Doll.

**Fish, Wildlife & Parks Staff Present:** Jeff Hagener, Director, and FWP Staff.

**Guests:** See July 19, 2007 Commission file folder for those who signed in.

**Topics of Discussion:**

1. **Opening - Pledge of Allegiance**
2. **Approval of June 14, 2007 Commission Meeting Minutes & June 25, 2007 Commission Conference Call Meeting Minutes**
3. **Approval of June, 2007 Commission Expenses**
4. **WAFWA Lifetime Membership Award to Tim Mulligan**
5. **Extension of Ruby River Fishing Access Site Leases - Endorsement**
6. **Purchase of Fort Peck Hatchery Residence – Final**
7. **Hard Ride Ranch State Park Potential in R6 near Culbertson – Endorsement**
8. **2007 Deer and Elk Quotas - Final**
9. **2007 Upland Game Bird Seasons - Final**
10. **HB454 Hunting Access Agreements - Final**
11. **2007 Early Season Migratory Bird Regulations - Tentative**
12. **Elk Plan Adjustment - Tentative**
13. **North American Wetlands Conservation Act Grant Proposal – Endorsement**
14. **Tribal Bison Hunt Update – Informational**
15. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Chairman Doherty called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. **Approval of June 14, 2007 Commission Meeting Minutes and the June 25, 2007 Conference Call Meeting Minutes.** Colton noted that there had been a discussion at the end of the June 14 meeting regarding the need to review the Elk Plan.

*Action: Workman moved and Colton seconded the motion to approve the minutes of the June 14, 2007 Commission meeting and the June 25, 2007 Conference Call Minutes. Motion carried.*

3. **Approval of June, 2007 Commission Expenses.**

*Action: Workman moved and Vermillion seconded the motion to approve the Commission expenses as presented. Motion carried*

**4. WAFWA Lifetime Membership Award to Tim Mulligan.** Jeff Hagener, FWP Director, explained that the Western Association of Fish and Wildlife Agencies (WAFWA), an organization dedicated to resource management, protecting habitat, and enhancing conservation efforts, represents nineteen western states and six Canadian provinces. Each year WAFWA presents awards to individuals in a variety of categories, and this year Tim Mulligan, former District 2 Commissioner, was awarded an Honorary Lifetime Membership Award. This award is presented to a former employee of a member agency, or to a commission/board member who was an active participant in the affairs of the Association, and whose leadership helped further the mission of the Association. Hagener extended appreciation to Mulligan for his dedication and hard work through the Commission, and presented him with a plaque of appreciation. Chairman Doherty congratulated Mulligan and commended him for his “legendary steady hand and calm influence”.

**5. Extension of Ruby River Fishing Access Site Leases – Endorsement.** Bob Snyder, FWP Hatchery Bureau Chief, introduced Bruce Rich, FWP Region 3 Fisheries Manager, who then described these lease extension proposals.

FWP entered into three five-year fishing access site leases on the Ruby River in 1997, which established the Silver Springs Bridge FAS, the Ruby Island Fishing Access Area, and the Alder Bridge and Coy Brown Fishing Access Sites that were included under one single lease agreement. These fishing access leases expire on August 1, 2007, after being renewed twice previously. The landowners have expressed interest in extending the leases on three of the sites, however the Coy Brown parcel has been sold and the new landowner does not wish to participate. It is also expected that lease rates will need to be renegotiated.

Vermillion asked if other access opportunities are available in that stretch of the river to replace access lost by the sale of the Coy Brown parcel, and if so, can new sites be pursued under the renewal agreement. Rich replied that it may be difficult to find other access sites in that stretch, and Hagener stated that the lease renewal language is broad enough to allow consideration of new sites as well as renewing existing sites..

*Action: Vermillion moved and Colton seconded the motion to authorize the Department to pursue negotiations to extend the Ruby River fishing access site leases. Motion carried.*

**6. Purchase of Fort Peck Hatchery Residence – Final.** Bob Snyder, FWP Hatchery Bureau Chief, explained that FWP provides housing for hatchery personnel who work on an on-call basis and who perform security duties. Currently, Fort Peck Hatchery does not have an on-site residence for either of the two staff members who perform these duties, therefore this proposal is to purchase a home near the hatchery for one of the personnel involved. General license funds from the hatchery capital budget would be used to purchase the home at the price of \$138,500. The house appraised at \$147,000, which was the initial asking price, however the owners have accepted the offer made by FWP at the reduced price.

Snyder said typically the Department obtains Commission approval prior to acquiring Land Board approval, however due to the urgency to close on the house, the Department proceeded out of order by attaining Land Board approval contingent on Commission approval.

*Action: Workman moved and Doll seconded the motion to proceed with the acquisition of the residence in Fort Peck to be used for housing for hatchery personnel performing Fish and Water Supply Protection Duty.*

Doll asked if the basement windows would be replaced. Snyder said the inspection generated a list of items that will be addressed, including the windows.

Chairman Doherty asked for public comment. There was none

*Action on Motion: Motion carried.*

Snyder briefed the Commission on drought conditions around the state, and reported that the snow melt occurred sooner than normal. The water temperatures in the western portion of the state are rising. Most eastern ponds and reservoirs are doing ok, except Fort Peck Reservoir, which is three feet lower than last year. High water temperatures have caused fish kills. A fish passage structure is being constructed on the Tongue River for spawning purposes, and because it is not complete, high volume of run-off caused damage to the channel. The Milk River had decent flows, and native fish used it successfully. FWP has installed a number of thermographs to monitor water temperatures across the state.

Snyder said the fisheries managers are concerned about the two-hour time extension on the water closures (close at 2:00 p.m. as opposed to the noon closures) that were instituted to assist outfitters. FWP is monitoring the rivers to assure that a high mortality rate is not occurring due to the two-hour extension. Triggers for water closures depend on the particular waters, but flow and temperatures are the driving force. The catch and release mortality rate is undetermined at this point. He also noted that displacement to other rivers is occurring.

Letters are being prepared by FWP to inform affected junior water rights owners of the conditions of the waters they utilize, with the request that they cease use immediately.

**7. Hard Ride Ranch State Park Potential in R6 near Culbertson – Endorsement.** Joe Maurier, FWP Parks Division Administrator, explained that new sites for state parks are being sought out, particularly in northeastern Montana. The 5,100-acre Hard Ride Ranch, near Culbertson on the south side of the Missouri River, has the potential to provide a great opportunity for the development of a state park, as well as for a wildlife management area.

The property is comprised of rangeland, dry and irrigated farmland, river breaks, juniper and pine trees, and numerous open ridges covered with native prairie vegetation. This property also includes approximately 3 miles of Missouri River frontage lined with cottonwood, green ash, and box elders. This vegetation provides excellent habitat for white-tail and mule deer, as well as antelope, pheasant, sharp-tailed grouse, and wild turkey. The ranch has been on the market for over a year at the listed price of \$2,975,000, however the price may be negotiable, and it may not appraise for the asking price. The acquisition would be paid for from the ten million dollars that was allocated from the general fund for parks projects. Criteria has been established on how to spend the money.

*Action: Colton moved and Workman seconded the motion to endorse the Department's proposal to begin negotiations to potentially acquire the Hard Ride Ranch property.*

Workman inquired how using a quarter of the funding available for a tenth of the population of the state fits the established criteria for park acquisitions. Maurier said that will be considered before any dealings are finalized. He also stated that the goal is to spend the money by the next legislative session as land prices continue to rise.

*Action on Motion: Motion carried.*

**8. 2007 Deer and Elk Quotas – Final.** Jeff Herbert, FWP Wildlife Division Assistant Administrator, and Quentin Kujala, FWP Wildlife Management Bureau Chief, presented the Wildlife proposals.

**Deer**

Two recommended changes to the proposed tentatives.

HD 121-00 – increase antlerless WT B licenses from 600 to 800

HD 270-00 – decrease antlerless mule deer B licenses from 200 to 100

*Action: Colton moved and Workman seconded the motion to approve the final 2007 Deer license quotas as recommended by the Department.*

Chairman Doherty asked for public comment on the two changes. There was none.

*Action on Motion: Motion carried.*

**Elk**

Thirteen recommended changes to the proposed tentatives.

HD 202-00—decrease antlerless permits from 50 to 5

HD 202-01—decrease antlerless permits from 150 to 100

HD 202-02—decrease antlerless permits from 100 to 30

HD 204-70—decrease A7 licenses from 125 to 5

HD 211-00—decrease antlerless permits from 150 to 50

HD 215-00—increase antlerless permits from 125 to 200

HD 240-70—decrease A7 licenses from 200 to 5

HD 250-70—decrease A7 licenses from 25 to 5

HD 260-00—decrease antlerless permits from 50 to 5

HD 261-70—decrease A7 licenses from 100 to 25

HD 270-70—decrease A7 licenses from 150 to 75

HD 270-71—decrease A7 licenses from 250 to 125

HD 282-70—decrease A7 licenses from 150 to 75

Workman initiated a discussion on the Darby Check Station in HD250. Currently, the season is closed after 50 animals are checked through the station. Several folks have shared concerns with him that 50 animals is too many, and their preference would be 25. As a compromise, he suggested a quota of 35.

*Action: Workman moved and Colton seconded the motion to reduce the quota from 50 to 35 in HD250.*

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

*Action: Workman moved and Colton seconded the motion to approve the 2007 final Deer and Elk license quotas, inclusive of the HD250 reduction from 50 to 35, as recommended by the Department.*

In response to questions regarding elk hunting in the CMR, **Graham Taylor, FWP Region 4 Wildlife Manager**, said last year the Commission had authorized 1,200 permits, but this year that number has been scaled back to 800 because HD410 now meets objective.

**Mark Sullivan, FWP Region 6 Wildlife Biologist**, discussed elk numbers in HDs 621 and 622. Quotas were increased in 2006. The elk survey last winter showed the number had stabilized. The working group in the Breaks decided to leave quotas as they are now because of conditions last fall. The 2008 season structure will need to be adjusted. A management season is likely.

**John Ensign, FWP Region 7 Wildlife Manager**, stated the elk situation in the Region 7 CMR districts is similar to that of Region 6. Elk are over objective. Quotas were raised last year, and again this year. Access is difficult in the 700 HDs of the Breaks. There are no overcrowding issues.

Hagener stated that legislation was proposed to reduce the number of non-resident archers in the Breaks, however it failed. It is a social issue, and will continue to be one.

Chairman Doherty asked for public comment. There was none.

*Action on Motion: Motion carried.*

**9. 2007 Upland Game Bird Seasons – Final. Jeff Herbert, FWP Wildlife Division Assistant Administrator**, stated there were no recommended changes from the tentatives, which was to reduce the bag limit from 4 to 3.

*Action: Vermillion moved and Workman seconded the motion to approve the 2007 Upland Game Bird seasons as recommended by the Department.*

Colton recommended reducing the sage grouse bag limit to two birds. He has received calls from county commissioners in eastern Montana with concerns about how the Department is managing sage grouse. It is important to get the message out that the Department is recognizing the concerns of the public and is doing a great job of managing sage grouse. The Adaptive Harvest Management Plan says the quota must be 2 or 4, not 3. He is pleased the quota was reduced this year, and regrets setting it at four last year.

Hagener said this is a social issue. The quota of three is sustainable, however the public is unaware that FWP is indeed listening and managing the sage grouse. The biggest threat to sage grouse is habitat loss, particularly due to oil and gas exploration and development. FWP has been working closely with the oil and gas industry to protect the species and habitat.

Willie agreed it is a social issue, and even though the population is there, he concurred with setting the quota at two. It is important to make it visible to the public that FWP is indeed addressing the concerns of the public.

*Action on Motion: Vermillion withdrew his motion.*

*Action: Vermillion moved and Doll seconded the motion to approve the 2007 Upland Game Bird seasons as proposed, including the amendment to reduce the sage grouse bag limit to 2.*

Chairman Doherty asked for public comment.

Tim Mulligan, Whitehall, asked the Commission to reconsider reducing the quota to two. The social issue includes sportsmen as well as landowners. By reducing the quota to two, the sportsmen will stop hunting. The travel to hunt sage grouse is great. Sportsmen pay for the process. His preference is to set the quota at three and create a reasonable hunt.

Doll said most of the sage grouse hunting in his area is combined with antelope hunting, and hun and sharptail hunting. Some ranchers there will not allow sage grouse hunting on their land as they want to preserve them. He is against harvesting larger numbers of sage grouse, and does not feel the hunters will stop coming.

Colton suggested setting the quota at two and then watching to see what happens with hunter participation.

*Action on motion – Motion carried. Four in favor – one opposed (Doherty).*

**10. HB454 Hunting Access Agreements – Final.** There are no recommended changes to the tentatives. FWP has statutory authority (House Bill 454 -- 87-2-513 MCA) to issue either-sex or antlerless elk permits, for management purposes, to landowners who offer free public elk hunting and who comply with conditions stipulated in a contract between themselves and FWP. The contract defines the hunting area, the number of hunting days the landowner will allow, and any additional terms necessary to successful elk management. In return, the landowner receives one either-sex (411-21) permit. FWP also issues 4 additional 411-21 permits by random drawing from the list of unsuccessful applicants for that license permit type. The successful applicants can only hunt on that landowner's deeded property.

John Swanz has submitted the only application for this access agreement since 2002 when HB454 was passed. He has been approved each year, and it has proven to be a successful endeavor.

*Action: Doll moved and Workman seconded the motion to adopt the Swanz HB454 Hunting Access Agreement for the 2007 general hunting season. Motion carried.*

**11. 2007 Early Season Migratory Bird Regulations – Tentative.** Jeff Herbert, FWP Wildlife Division Assistant Administrator, explained that there are two different migratory bird season processes. One is for early season regulations for webless species, and the other is for late season regulations for ducks, geese, and swans. The Department must operate within federal regulations when setting regulations. The dates and bag limits for certain species (mourning doves and snipes) are fixed dates and are generally approved as they appear in federal regulations. Sandhill crane quotas are based on the Rocky Mountain population of cranes.

Proposed changes to the 2006 Early Season Migratory Bird Season regulations for the 2007 season are:

- Special permit season dates for Rocky Mountain Population of Sandhill Cranes proposed as September 8 – September 16.
- Season dates for Mid-continent Sandhill Cranes proposed as September 22 – November 18.
- Meagher County a proposed addition to Wheatland & Sweetgrass counties special permit area for Rocky Mountain Population.
- Increase permits numbers in the Wheatland, Sweetgrass (and Meagher) counties special permit area from 40 to 50.
- Under MCA 87-5-201, add Eurasian Collared Dove to the list of exotic bird species that may be taken without license or season.

*Action: Workman moved and Colton seconded the motion to adopt the 2007 tentative Early Season Migratory Bird Regulations as proposed by the Department.*

Chairman Doherty asked for public comment. There was none

*Action on Motion: Motion carried.*

## **12. Elk Plan Adjustment – Tentative.**

One proposed change.

Highwood EMU – increase objective from 550 to 700

*Action: Colton moved and Workman seconded the motion to adopt the tentative Elk Plan objective change from 550 to 700 in the Highwood EMU.*

Chairman Doherty asked for public comment. There was none

*Action on Motion: Motion carried.*

### Elk Plan discussion:

Hagener stated that development of the Elk Management Plan had been lengthy, and it has only been implemented for less than two years. The public was heavily involved in its conception. The Plan needs time to prove itself one way or the other. He suggested holding a Work Session in October or November to bring the Commission up to speed on the Plan's development.

Colton added that the Work Session should address Missouri Breaks issues, goals for 2009, and the possibility that elk are being forced into becoming a nuisance species.

Hagener said the Plan is sound. Some areas are over objective and some are under. He added that some of the issues Colton wishes to address are beyond the Plan. FWP is directed by legislation to manage the levels. Colton said he wants to discuss what can be done outside of the Plan.

Workman asked if FWP has ever proposed to landowners who are overpopulated with elk that because of legislative mandates, the Department will dictate to them what hunting will occur on their land. He said the Department needs the option available that would allow it to tell the landowners they need to work with the Department or the Department will not work with them.

Hagener said the Commission has, per the Plan, the ability to close a specific area entirely. It hasn't gone to that extent in the past.

Doherty said we are getting to the point where people must understand the options – especially if the legislature has told the Department to address this.

Colton said the wildlife managers know where there is limited access and why. Legislation was designed to help those who are adversely affected by wildlife. He wants background on the legislative bill to make sure he understands the intent.

Herbert said FWP is responsible to put seasons in place, and hunters need to be supportive of liberal regulations. Landowners need to be able to provide the level of access needed, and outfitters need to accommodate antlerless harvest. It is a shared responsibility.

Vermillion said care needs to be taken so that areas that are working are not disturbed. A district by district approach needs to be taken.

There will be a work session at the October or November Commission meeting, with outside parties invited, and an elk summit will be scheduled for early December, after the big game season and before the December Commission meeting.

**13. North American Wetlands Conservation Act (NAWCA) Grant Proposal – Endorsement.** Ken McDonald, FWP Wildlife Division Administrator, said the Nature Conservancy and the US Fish & Wildlife Service have asked FWP to participate as a partner on a federal grant proposal specific to wetland conservation on the Rocky Mountain Front. The grant requires non-federal match, and FWP has been requested to contribute toward a portion of that match through this proposal.

FWP would commit to purchasing a conservation easement on a priority parcel along the Rocky Mountain Front sometime during the next two years using Habitat Montana funds. The parcel would need to be at least 200 acres, with at least 10 of those acres being wetland or riparian. The Nature Conservancy would use at least \$100,000 of the easement price as a match for the \$1 million North American Wetland Conservation Act grant they are applying for. If successful, they would then use the NAWCA grant to purchase a separate easement on the Front. At this point, FWP has not identified a specific parcel that would be used to meet this commitment, although several potential parcels are being investigated. Once identified, Commission endorsement would be sought before pursuing a specific easement.

McDonald asked the Commission if they would prefer waiting to endorse the project until a specific area has been identified. This action is just for a commitment to the project.

*Action: Vermillion moved and Workman seconded the motion to approve FWP's commitment to acquire a conservation easement of at least 200 acres on the Rocky Mountain Front using Habitat Montana funds, with the understanding that the Department will seek further endorsement once a specific parcel is identified.*

Chairman Doherty asked for public comment.



Daryl Johnson, Beaverhead Outdoors Association, expressed disapproval at FWP participating without knowing the specifics. He said committing any amount of money without specifics is ridiculous.

Hagener replied that this is an overall Rocky Mountain Front Initiative, with the project limited to a specific area. Private contributions would provide \$40 million, and FWP would contribute to the matching funds.

Doll said he would not approve the project if the easement were made in perpetuity. He said perpetual agreements do not leave opportunity for the landowners to make any decisions on their own land in the future. He wants to see a time limit set.

McDonald said it is not to that degree of discussion yet.

*Action on Motion: Motion carried. Four in favor – one opposed (Doll).*

**14. Tribal Bison Hunt Update – Informational.** Director Hagener said FWP is continuing discussions with the Nez Perce and the Confederated Salish & Kootenai Tribes relative to bison hunting. Two meetings have been held recently, and from those meetings areas of common ground were identified, as well as areas that require more discussion. Further investigation is underway to determine if the Shoshone Bannock Tribe has treaty rights to hunt bison. FWP wants to set the final season structure by the end of August, but not before the tribal issues are settled.

**Kurt Alt, FWP Region 3 Wildlife Biologist, and Sam Sheppard, FWP Region 3 Warden Captain** met with the two tribes, and points of common ground were identified. There was a great deal of discussion on communication - the Department of Livestock must be included. An understanding was reached that one permit would be issued per hunter. The Nez Perce felt one license should allow the take of two bison. It was agreed by everyone that hunter orientation was necessary. The three season types create opportunities as well as problems with the tribal seasons. The tribes are going back to their counsels to discuss this issue. Other species were not discussed, however the Nez Perce alluded to elk at one point. If a trapping/slaughter occurs this year, the Nez Perce wish to exercise their rights to those bison. Alt stated that no bison were slaughtered this year. They were trapped and moved to the center of the Park.

Hagener said the Department is trying to balance opportunity and fairness issues. There are equal numbers of permits allotted for the tribes and for non-tribal entities. FWP is not proposing any changes to the tentatives, but the tribes are asking for more animals.

Workman asked if discussions are limited to bison, or can the tribes shoot other species. FWP needs to take a stand and inform them of what will be tolerated.

Hagener said it has been limited to bison at this point. FWP has drawn the line that what they did last year was unacceptable. The tribes made it clear that they will not give up their sovereignty rights.

Workman asked if the tribes could establish their own herd. Alt replied that the Brucellosis issue prevents that. Hagener said FWP offered to provide bison to them after they have completed the quarantine process.

A meeting that involves all interested parties will be held to discuss the issues, including a representative from the Attorney General's Office.

**15. Open Microphone – Public Opportunity to Address Additional FWP Issues.**

Russ Kipp, Dillon, asked how much money was generated through the fee structure that was placed on fishing outfitters, and what will be done with that money. The Beaverhead River is on the impaired list. Ramps need repaired. Will any money be used there? Kipp said he thinks outfitters can be in the same area as block management. He feels the Commission is somewhat anti-outfitting, and he said outfitting is important to the state. The exact figures on how much money has been generated was unknown by those FWP staff members at the meeting, but can be obtained from the Fiscal staff. The fee money is to be used to make improvements on the rivers and for the river recreation program.

*Action: Colton moved and Workman seconded the motion to adjourn the meeting. Motion carried.*

Meeting adjourned at noon.

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**Steve Doherty, Chairman**

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**M. Jeff Hagener, Director**